Supreme Court, U. S.
FILED
MAY 19 1980
MICHAEL RODAK, JR., CLE

IN THE
SUPREME COURT OF THE UNITED STATES

October Term, 1979

No. 79-1668

LILLIAN J. BADGLEY

EMIL LAKE and HELEN LAKE

GEORGE ELWOOD, Admr., ESTATE OF B. VAN LOAN

GEORGE and HELEN GREGORY,

Petitioners,

-v.-

THE CITY OF NEW YORK,

Respondent.

BRIEF OPPOSING PETITION FOR A WRIT OF CERTIORARI

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MORRIS EINHORN,
of Counsel.

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RESPONDENT'S BRIEF IN OPPOSITION

Jurisdiction

The judgment of the Court of Appeals (Second Circuit) was entered September 27, 1979 and a petition for rehearing suggesting rehearing en banc was denied January 23,

1980 (Pet., pp. 2-3). Petitioners invoke this Court's jurisdiction under 28 U.S.C. §1254 (1).

Statement - Identity of Issues

The issues raised by petitioners are identical with those raised in the Canfield petition (No. 79-1644) filed prior thereto, and pending before this Court. The cases having been jointly tried by the District Court, consolidated on appeal to the Court of Appeals, and presenting identical issues in this Court, the brief of the City of New York opposing the Canfield petition simultaneously responds to the petition herein as well. The Court is respectfully referred thereto, copies of that brief having been served on counsel for petitioners Badgley, Lake, Elwood, Gregory.

Conclusion

The petition for a writ of certiorari should be denied.

Dated: May 16, 1980.

Respectfully submitted,

ALLEN G. SCHWARTZ,
Corporation Counsel of
the City of New York
Attorney for Respondent.

L. KEVIN SHERIDAN,
MORRIS EINHORN,
of Counsel.